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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT
OF PENNSYLVANIA MIDDLE DISTRICT.

JOSEPH M CRAVEIRO JR.

VS.

U.S.A. et, al.

FILED
HARRISBURG

JUN 25 2001

Ca.No.100-CV-1714

MARY E. D'ANDREA, CLERK
Per.
DEPUTY CLERK

MOTION FOR RECONSIDERATION

Now comes the above named petitioner, Pro, Se. before this Honorable court with this Motion pursuant to F.R.C.P. 60 or alternative Rule 52.

The prtitioner is asking this Honorable court to reconsider the order/Memorandum of June 13, 2001, dismissing the petitioner's Writ of Habeas Corpus under 28, USC, 2241.

The Motion for reconsideration is appropate when the judgment overlook's an issue briefed or makes and obvious legal error.

In the CASE AT BAR THE COURT'S ORDER CONTAIN:S AND OVERLOOKS the Issue of equitable estoppel. This error of law is were in fact this Honorable court adopted the respondents reasoning to dismiss the case ,because the resondents felt that a Motion under 28 USC 2241 was not the proper way to challeng a old in valid states sentence, that was being used to enhance the petitioners sentence under 18 USC 924(e). The petitioner feels that the action by this Honorable court was a error of law. The supreme court has just ruled on this Issue in the cases of Daniels and Cross and stated that in fact a 2255 was not the proper vehicle to challeng a improperly enhanced sentence under 18 USC 924(e). The rulings in question would only go to show that a Writ of Habeas Corpus under 28 USC, 2241 was the proper vehicle back into Federal court, on the question of a constitutional unsound State conviction.

The state conviction in question was tainted by counsel's ineffective assistance in violation to the sixth amendment, See. Mema Vs. Rhay 389 US.128, 19Ld 2d 336(1967) "RIGHT TO COUNSEL AT ALL CRITICAL STAGES" In Hamilton Vs, Alabama 368 US, 52, 54, 7 led 2d 114 (1961) held that State proceedings where plea is entered is a critical stage.

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and White Vs Maryland 373 Us 59 60, 10 led 2d 193 (1963)(Same as above. Hill Vs, Lockhart 474 US. 52 88 led 2d 203 (1985) The petitioner received no meaningful assistance at all from the court appointed counsel, which constructively denied him the constitutional protections pursuant to the sixth Amendment. The rights to have effective assistance of counsel at all critical stages in a Criminal proceeding, See, US. Vs. Gronic 466 US 668 80 led 2d 674 (1984).

The petitioner feels that this action by the court was a error of Law. The United States Supreme court on april 25, 2001 has made a Ruling in the case's of Daniels Vs USA and in U.S. Vs. Cross, that states that in fact a 2255 and a 2254 is not the right vehicle to open the door to challenging a Proper State Conviction that may have used to enhance, under 18 USC 924(e).

PETITIONER NOW HAS SHOWN THAT THE remedy under or /vehicle to challeng his improperly enhanced sentence could only be a Writ of Habeas Corpus under 2241 because the Supreme court has stated in the two above case there is no relief under 28 USC 2255.

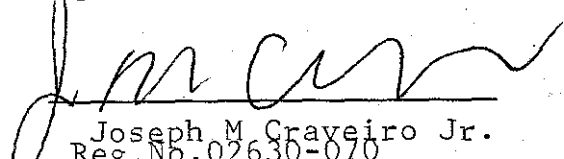
So that is a inadequate or ineffective way to test the legality of petitioners detention . Wherefore in light of the two new rulings in the cases named herein Cross Vs. US. 99-1884(4/25/01) and Daniels Vs. US 99-9136(4/25/01) Wherefore the petitioner ask this Honorable court to reconsider it's Judgment of June 13/01, by amending it's order and grant a fact finding hearing for the record on said matter of Law.

This would be in the best interest of justice economy, that the petitioner makes this request for reconsideration. Without the factual development required to support the court's determination of law the appeal panel will be unable to conduct a proper de-Novo review of the legal issues. For the reasons stated herein the petitioner prays that this honorable court grant this Motion.

CERTIFICATE OF SERVICE

I, Hereby certify that I have mailed a true copy of the herein Motion to the respondents, attorney. on this date. 6/23/01

RESPECTFULLY SUBMITTED


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